

EXECUTIVE SECRETARIAT
ROUTING SLIP

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
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6	DDA				
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/Pers				
14	D/OLL				
15	D/PAO				
16	SA/IA				
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18	C/IPD/OIS				
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Remarks

STAT

Executive Secretary

21 FEB 95

Date

3637 (10-81)

Executive Registry

CABINET AFFAIRS STAFFING MEMORANDUM 607/1

Date: 2/19/85 Number: ----- Due By: -----

Subject: Cabinet Council on Natural Resources and Environment Minutes

ALL CABINET MEMBERS	Action	FYI		Action	FYI
Vice President	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CEA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
State	<input type="checkbox"/>	<input type="checkbox"/>	CEQ	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Treasury	<input type="checkbox"/>	<input type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Justice	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Interior	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commerce	<input type="checkbox"/>	<input type="checkbox"/>	Mc Farlane	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Labor	<input type="checkbox"/>	<input type="checkbox"/>	Svahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HHS	<input type="checkbox"/>	<input type="checkbox"/>	Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
HUD	<input type="checkbox"/>	<input type="checkbox"/>	Chapman	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transportation	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Energy	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Counsellor	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
CIA	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
UN	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
USTR	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Chief of Staff	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
GSA	<input type="checkbox"/>	<input type="checkbox"/>	Executive Secretary for:		
EPA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CCCT	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NASA	<input type="checkbox"/>	<input type="checkbox"/>	CCEA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPM	<input type="checkbox"/>	<input type="checkbox"/>	CCFA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VA	<input type="checkbox"/>	<input type="checkbox"/>	CCHR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SBA	<input type="checkbox"/>	<input type="checkbox"/>	CCLP	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			CCMA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			CCNRE	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

Attached for your information are the minutes of the February 12, 1985 Cabinet Council on Natural Resources and Environment Meeting.

RETURN TO:

☐ Alfred H. Kingon
Cabinet Secretary
456-2823
(Ground Floor, West Wing)

☒ Don Clarey
☐ Tom Gibson
☐ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs
456-2800 (Room 129, OE08)

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THE WHITE HOUSE

WASHINGTON

CABINET COUNCIL ON NATURAL RESOURCES AND ENVIRONMENT

February 12, 1985, 2:00 p.m.

Cabinet Room

MINUTES

Participants: The President, the Vice President, Hodel, Baker, Smith, Block, Baldrige, Herrington, Meese, Regan, Thomas, Svahn, Fielding, Buchanan, Hill, Ford, Taft, Knapp, Lighthizer, Niskanen, Oglesby, Speakes, Verstandig, Davis, Clarey, Boggs, Baroody, Cribb, Kingon, Wallis, Porter, Khedouri, Gray, Habicht, Pearlman, Faoro, Smith.

The President brought the Council meeting to order and called upon Secretary Hodel to make brief introductory remarks. Secretary Hodel then yielded to Administrator Thomas for a presentation on the Superfund program.

Administrator Thomas gave an update on the progress that has been made in cleaning up abandoned waste sites and indicated that, by the end of 1985, the following milestones will be met:

- o Over 20,000 sites will have been inventoried;
- o Over 16,000 sites will have been assessed for their potential danger;
- o Over 5,000 sites will have been inspected;
- o Over 600 emergency removals will have been completed;
- o Engineering studies will be underway at over 494 sites to determine long-term remedies;
- o Construction will be underway at over 160 sites; and
- o Sites with activity occurring on them will total over 1,000.

Thomas then outlined five major issues which must be resolved in order to develop reauthorization legislation. These issues are (1) the scope of the program; (2) the size and pace of the program; (3) the authority which EPA will have to enforce activities of other federal agencies; (4) the role of state and local governments in the administration of the Superfund program; and (5) whether or not the Fund should be used to pay for natural resource damages. After discussion, the President took these issues under advisement.

Secretary Hodel then called upon Secretary Herrington for an update on the world petroleum situation. The President requested information on the increasing role of petroleum product imports. After discussion, it was decided that this was an issue that deserves further attention, but no other decisions or recommendation were made.

EXECUTIVE SECRETARIAT
ROUTING SLIP

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2	DDCI				
3	EXDIR		X		
4	D/ICS				
5	DDI				
6	DDA		X		
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt		X		
13	D/Pers				
14	D/OLL				
15	D/PAO				
16	SA/IA				
17	AO/DCI				
18	C/IPD/OIS				
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22					

SUSPENSE

Date

Remarks

STAT

8 Feb 85

Date

WASHINGTON

Executive Registry

25- 607

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 2/7/85 Number: 169133CA Due By: _____Subject: Cabinet Council on Natural Resources and Environment with the
President - Tuesday, February 12, 1985 - 2:00 P.M. - Cabinet Room

ALL CABINET MEMBERS	Action	FYI		Action	FYI
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEQ	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Treasury	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Attorney General	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Interior	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Regan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Commerce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Labor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HHS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFarlane	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HUD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Svahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chapman	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Energy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Counsellor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
CIA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
UN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
USTR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Executive Secretary for:		
GSA	<input type="checkbox"/>	<input type="checkbox"/>	CCCT	<input type="checkbox"/>	<input type="checkbox"/>
EPA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CCEA	<input type="checkbox"/>	<input type="checkbox"/>
NASA	<input type="checkbox"/>	<input type="checkbox"/>	CCFA	<input type="checkbox"/>	<input type="checkbox"/>
OPM	<input type="checkbox"/>	<input type="checkbox"/>	CCHR	<input type="checkbox"/>	<input type="checkbox"/>
VA	<input type="checkbox"/>	<input type="checkbox"/>	CCLP	<input type="checkbox"/>	<input type="checkbox"/>
SBA	<input type="checkbox"/>	<input type="checkbox"/>	CCMA	<input type="checkbox"/>	<input type="checkbox"/>
			CCNRE	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REMARKS:

The President will chair a meeting of the Cabinet Council on Natural Resources and Environment on Tuesday, February 12, at 2:00 P.M. in the Cabinet Room.

The agenda is Superfund Reauthorization. A background paper is attached.

RETURN TO:

☐ Alfred H. Kingon
Deputy Assistant to
the President for
Cabinet Affairs
456-2823

☒ Don Clarey
☐ Tom Gibson
☐ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs

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SUPERFUND BACKGROUND PAPER

INTRODUCTION:

The President committed, in his 1984 and 1985 State of the Union Addresses, that the Administration would support reauthorization of the Superfund program. A number of issues, including the size, scope, and pace of the program, have been identified as pivotal for the development of reauthorization legislation. EPA, in consultation with other interested agencies, is currently drafting legislative language for submission to the Congress.

BACKGROUND:

Responding to nightly newscasts showing toxic wastes oozing from the infamous Love Canal, the Congress, in the last days of the Carter Administration, passed the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, better known as Superfund. Superfund's implied purpose was to provide a federal mechanism for cleaning up abandoned hazardous waste sites, yet the statute allowed response to a very broad set of environmental problems. The statute was authorized for five years and a \$1.6 billion fund, primarily generated by a tax on chemical and petroleum feedstocks, was established. Superfund introduced two new concepts into environmental law: it retroactively imposed "joint and several liability" on companies that generated or contributed to the disposal of hazardous waste, and it imposed a tax on current chemical and petroleum production to finance cleanup of orphaned or abandoned waste sites.

Size and Pace

The Superfund program had a controversial start. Part of the controversy stemmed from public and Congressional impatience with the pace of cleanup activity at priority sites. While the pace and the administration of the Superfund program have improved in the past 18 months, the Congress remains concerned about the program's accomplishments to date. Actual field work in the form of engineering studies or site construction is underway at over 300 sites, and over 470 emergency actions have been initiated (over 300 completed). However, only six long-term cleanups have been completed in the four years since enactment.

The statute provides for three types of actions to cleanup sites: removal, remedial and enforcement. A removal action is taken in emergency situations to eliminate any immediate health risk to the exposed population and to stabilize conditions at the site until a long-term cleanup action, if required at a site, can be undertaken. These are generally less than six months in duration and cost an average of \$300,000. To date, EPA has

undertaken over 470 of these removal actions. A remedial action is a long-term cleanup action taken at more severe sites that must be first listed on the National Priorities List (NPL). These cleanups involve complex engineering studies and major construction projects. They cost an average of \$8.1 million and require approximately 36 months for investigation, design and construction. Through its enforcement authorities, where feasible and timely, EPA can require the responsible party (owner, operator, generator or transporter) to undertake site cleanup or finance a cleanup prior to the expenditure of Fund money. To date, EPA has received over \$300 million in private party cleanup action through these authorities.

Scope of Program

An area of growing concern is the potential scope of the program. EPA currently has an inventory of 18,000 potential sites that require investigation. The Agency estimates that the NPL will ultimately include 1,500 to 2,000 sites which will require long-term cleanup. While Superfund was popularly represented as being aimed at discreet, abandoned hazardous waste dumps (e.g. Love Canal), in fact, the law authorizes response to any release or threatened release of a hazardous substance, pollutant or contaminant into the environment. These words are statutorily defined very broadly.

EPA has already used Superfund to undertake cleanup or enforcement activities at sites that don't fit in the traditional "hazardous waste dump" category, but nonetheless fall within the statutory authorities (dioxin contamination from road oiling, mining mill tailings and groundwater contamination from the normal application of currently approved pesticides). If the scope of response authority is not narrowed, or redirected to traditional sites, the Agency is concerned that the NPL could grow dramatically beyond the current projections, and the program could be impossible for EPA or the states to manage.

The EPA, in a recent report to the Congress, estimated that it will cost \$11.7 billion to cleanup the estimated 1,800 sites which will be put on the National Priorities List. In the last Congress, the House passed and the Senate seriously considered legislation which would have substantially expanded the program. If the scope of the Superfund program is not narrowed, Superfund could easily become an open-ended public works program to address any environmental problem (see chart). If this occurs, the ultimate cost will be substantially higher than the \$11.7 billion current estimate.

In testimony before Congress last year, EPA indicated that approximately \$1 billion per year is the optimum amount that they can realistically manage. Due to technical and personnel constraints, the EPA cannot efficiently spend at a higher rate.

Financing

The original Superfund tax raised approximately \$300 million per year. Given the magnitude of the increase in funding which the EPA is recommending, a number of legitimate questions have been raised regarding the equity of the current tax formula and the ability of the chemical industry to finance this program. Since enacted in 1980, eleven chemical companies have paid the majority of the \$1.3 billion raised from private funds to finance this program, even though they were not directly associated with the improper disposal. EPA and Treasury are currently developing options for revenues. In a separate paper, these options will be presented.

SCOPE OF SUPERFUND ACTIVITY

